

DRAFT
BOARD OF COUNSELING
QUARTERLY BOARD MEETING
Friday, January 27, 2017

TIME AND PLACE: The meeting was called to order at 10:11 a.m. on Friday, January 27, 2017, in Board Room 1 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia.

PRESIDING: Kevin Doyle, Ed.D., LPC, LSATP

BOARD MEMBERS PRESENT: Johnston Brendel, Ed.D., LPC, LMFT
Cinda Caiella, LMFT
Charles Gressard, Ph.D., LPC, LMFT, LSATP
Bev-Freda L. Jackson, Ph.D., MA, Citizen Member
Sandra Malawer, LPC, LMFT
Vivian Sanchez-Jones, Citizen Member
Terry R. Tinsley, Ph.D., LPC, LMFT, CSOTP, NCC
Holly Tracy, LPC, LMFT

BOARD MEMBERS ABSENT: Danielle Hunt, LPC
Jane Nevins, LPC, LSATP
Phyllis Pugh, LPC, LMFT, CSAC

STAFF PRESENT: Tracey Arrington-Edmonds, Licensing Specialist
Christy Evans, Discipline Case Specialist
Jaime Hoyle, Esq., Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Licensing Manager
James Rutkowski, Assistant Attorney General
Elaine Yeatts, DHP Senior Policy Analyst

WELCOME: Dr. Doyle welcomed the Board members, staff and the general-public in attendance.

ORDERING OF AGENDA: The agenda was adopted as presented.

PUBLIC COMMENT: No public comment.

APPROVAL OF MINUTES: Dr. Brendel moved and seconded by Ms. Sanchez-Jones to approve the minutes of the November 4, 2016 Board meeting. The motion passed unanimously.

DHP DIRECTOR'S REPORT: Dr. Brown was not present to provide a report.

EXECUTIVE DIRECTOR'S REPORT: Executive Director, Ms. Hoyle welcomed and thanked everyone in attendance. Ms. Hoyle reported that the Board's operating budget as of December 2016 was provided as a separate handout. Ms. Hoyle reminded the Board that regulations changing the fees for the Board of Counseling will take effect on

February 8, 2017. Ms. Hoyle also informed the Board on staffs continued efforts to go green by implementing the emailing of annual renewal notices for the 2018 renewal. The 2017 annual renewal notices will be sent by postal mail service and email. Board staff continues to work towards employing online applications and hopes to have this new process available by summer.

**DEPUTY EXECUTIVE
DIRECTOR'S DISCIPLINE
REPORT:**

Ms. Lang reported the first quarter number of cases closed (47), open cases (98) and the cases received (27). The average time to close a case is 375.5 days. The percentage of cases of all types closed within 365 calendar days is 45.5%. She thanked the Board member for their work in reviewing case files in a timely manner. Mrs. Evans reported that 1% of licensees were audited for continued competency requirements that consisted of 38 LPC's, 7 LMFT's and 2 LSATP's. Most of the licensees provided documented of completion of the required continued competency requirements others are working on completing the continued competency requirements per the additional time agreed upon with the Board

**LICENSING MANAGER'S
REPORT:**

Mrs. Lenart reported the Board of Counseling regulated 7,808 licensees as of the end of second quarter of the 2017 Fiscal Year (October 1, 2016 – December 31, 2016). As of the last Board meeting, the Board licensed 172 individuals. The Board of Counseling staff continues to work hard to provide feedback to applicants within 24 hours and to process complete applications within 30 business days. Ms. Lenart also reported that staff continues to receive an increasing number of incomplete applications and hopes that the updated application packets will provide clear instructions to help eliminate this issue.

In addition, Ms. Lenart provided an update on the results of the NCAC1 exam for CSAC certification. As of January 2017, 87 applicants have attempted to take the NCAC1 exam. Of the 90 applicants, 66 have passed and 24 have failed, which represents a 73.3% passing rate.

BOARD COUNSEL REPORT:

No report.

**BOARD OF HEALTH
PROFESSIONS REPORT:**

No report.

**REGULATORY COMMITTEE
REPORT:**

Dr. Gressard reported that the Regulatory meeting focused primarily on potential changes to the CSAC and CSAC-A Regulations Standards of Practice sections. The Committee recommendation to the Board is to develop context for the confidentiality of records to be added to all regulations. Dr. Doyle recommended that the Board consider an emergency regulatory change. Dr. Gressard moved that the Board publish a Notice of Intended Regulatory Action("NOIRA") notice to amend the Regulations Governing the Practice of Professional Counseling, Marriage and Family Therapists, Licensed Substance Abuse Treatment Practitioners and the Certification of Substance Abuse

Counselors and Substance Abuse Counseling Assistants to add confidentiality of records to the Standards of Practice section. The motion was seconded by Dr. Brendel and passed unanimously.

Additionally, the Committee discussed the American Association of State Counseling Boards (AASCB) Portability Plan and the Licensed Marriage and Family Therapist (LMFT) Regulations sections 18VAC115-50-40.B.2.b and 18VAC115-50-60.B.2; however at this time there are no recommendations to the Board. The next Regulatory Committee meeting is scheduled for May 18, 2017 at 1:00 p.m.

UNFINISHED BUSINESS:

Bylaws Review – Staff suggested revisions to the Bylaws in order to reflect the correct sections of the laws and regulations and to add new information relevant to the Department of Health Professions and the Board of Counseling. The proposed changes and recommendations were provided in the agenda package. Dr. Gressard moved to accept the recommended changes by staff to the Bylaws. The motion was seconded by Ms. Malawer and passed unanimously.

NEW BUSINESS:

Regulatory/Legislative Report – Mrs. Yeatts provided a chart detailing the below regulatory actions status of regulations for the Board as of January 12, 2017. She indicated staff and the Board Chair would schedule a meeting after the General Assembly Session to work out objections of the CACREP Action 4259.

- 18VAC 115-11 Public Participation Guidelines Conforming to APA (Action 4631) – fast-track register date of 11/28/2016 and effective as of 1/12/2017.
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling requirement for CACREP accreditation for educational programs (action 4259) -proposed *At Governor's Office*
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling CE for volunteer services (Action 4630) – fast-track register date 1/23/17 with effective date of 3/9/17
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling Fee increase (Action 4443) – final register date 1/9/2017 with effective date of 2/8/2017
- 18VAC 115-30 Regulations Governing the Certification of Substance Abuse Counselors updating and clarifying regulations (Action 4691) – the NOIRA register date 1/23/2017 and comment closes 2/22/2017

Mrs. Yeatts provided information on the following House Bills and Senate Bills that may impact the Board of Counseling:

- SB 848 (HB1449) Naloxone, dispensing for use in opioid overdose reversal etc. –this is a Governor's bill. The bill allows a person by the approved by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for the

use in opioid overdose reversal and who is acting on behalf of an organization that provides substance treatment services to individuals at risk of experiencing opioid overdose.

- SB 1020 (HB2095) Registration of peer recovery specialists and qualified mental health professionals –this is a Governor's bill. The bill authorizes the registration of peer recovery specialists and qualified mental health professions by the Board of Counseling. The bill defines qualified mental health professional and registered peer recovery specialist and the type of services each can provide. The Board of Behavioral Health and Developmental Services and the Board of Counseling shall promulgate regulations to implement the provision of this act to be effective within 280 days of its enactment.

NEXT MEETING:

Scheduled for May 19, 2017 at 10:00 a.m.

CLOSED MEETING:

Ms. Tracy moved that the Board of Counseling convene in closed session pursuant to §2.2-3711(A)(27) of the Code of Virginia in order to consider Recommended Decisions. She further moved that James Rutkowski, Jaime Hoyle, Jennifer Lang, Christy Evans, Charlotte Lenart, and Tracey Arrington-Edmonds attend the closed meeting because their presence in the meeting was deemed necessary and would aid the Board in its consideration of the matters. The motion was seconded and carried.

RECONVENE:

Ms. Tracy moved that pursuant to §2.2-3712 of the Code of Virginia that the Board of Counseling heard, discussed or considered only those public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as identified in the original motion. Scheduled for May 19, 2017 at 10:00 a.m. The motion was seconded and carried unanimously.

DECISIONS:

Jose Hermida, LPC Applicant

The Agency Subordinate concluded that Jose Hermida, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-49 and 18VAC115-20-51(A) and recommended that his application for registration of supervision as a preliminary requirement for licensure by examination be denied.

Tary Hanna, LPC Applicant

The Agency Subordinate concluded that Tary Hanna, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-49, 18VAC115-20-51(A), and 18VAC115-20-52(B) and recommended that her application for licensure by examination be denied.

Natkai Akbar, LPC Applicant

The Agency Subordinate concluded that Natkai Akbar, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-49 and 18VAC115-20-51(A) and recommended that her application for registration of supervision as a

preliminary requirement for licensure by examination be denied.

Kevin Pengelly, LPC Applicant

The Agency Subordinate concluded that Kevin Pengelly, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-49, 18VAC115-20-51(A), and 18VAC115-20-51(A)(13) and recommended that his application for registration of supervision as a preliminary requirement for licensure by examination be denied.

Regina Foster, CSAC Reinstatement Applicant

The Agency Subordinate concluded that Ms. Foster failed to provide evidence that she is able to return to safe and competent practice of substance abuse counseling, and recommended that her application for reinstatement be denied and the certificate be continued on indefinite suspension.

Jessica Tappel, LPC Applicant

The Agency Subordinate concluded that Tary Hanna, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-49 and 18VAC115-20-51(A) and recommended that her application for registration of supervision as a preliminary requirement for licensure by examination be denied.

Dr. Brendel moved to accept the recommendations as presented. The motion was seconded by Ms. Malawer and passed unanimously.

ADJOURN:

The meeting adjourned at 12:04 p.m.

Kevin Doyle, Ed.D., LPC, LSATP
Chairperson

Jaime Hoyle, Esq.
Executive Director